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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/707,311

Applicant(s)

STENGEL, ED

Examiner

Thanh-Truc Trinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7, 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Hilton et al. (Publication No. US 2003/0121541 A1).

Regarding claim 1, as seen in Figures 1-5 and 16-21, Hilton et al. disclose a portable solar power system (10) comprising a massive body of an irregular shape (container 40); solar cells (20, 22) exposed on a surface of the body to generate an electrical current; a DC power outlet (or wires leading to bulbs 88, 89 – See Figure 21) for providing power from the solar cells to power a light bulb. The body has an appearance of a natural garden feature (a large rock or boulder) and a base for setting on the ground so that the body maintains a stable position (See Figure 19 and paragraphs [0037], [0039]). It is the Examiner's position that the power coming from a battery is a DC power. It is also the Examiner's position that the light bulb is a garden accessory and separate from the solar cell panel. In addition, the instant claim contains a recitation of "to power a separate small electrical pump or garden accessory" which is

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a manner of how the apparatus is employed or intended. Since Hilton et al. teach all the structural limitations of the instant claim, the manner of operating the device does not differentiate apparatus claim from the reference. See MPEP § 2114.

Regarding claim 2, Hilton et al. describe the massive body is hollow and may includes a regulator between the solar cells and the battery. The regulator is inherently located in the massive body for regulating the voltage at the power outlet (See Figure 21, page 3 paragraphs [0041-0042]).

Regarding claim 3, Hilton et al. disclose a portable solar powered home identification system comprising a rechargeable battery located in the massive body, wherein the rechargeable battery is charged by the solar panel. (See Figure 21 or page 3 paragraph [0041])

Regarding claim 4, Hilton et al. describe the massive body is in the shape of a rock. (See Figure 19, or paragraphs [0037], [0039])

Regarding claim 7, Hilton et al. describe the base of the power supply is flat on its underside to provide a stable surface for setting on the ground (See Figures 1-5, 18-19).

Regarding claims 10-11, Hilton et al. teach that the massive body of the portable power supply is formed from synthetic material shaped to resemble a natural rock, and the material is plastic. (See Figures 18-19, page 2 paragraphs [0031], [0037], [0039]).

Regarding claim 12, Hilton et al. teach that the power supply comprising a plurality of output jacks, or wire leading to bulbs 88 and 90. (See Figure 21).

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Regarding claim 13, Hilton et al disclose the surface portion that the solar cell (10 or 22) disposed on is flat. (See Figures 1-5, 21)

3. Claims 1-4, 7-11 and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Sooferian (US Patent 6932489).

Regarding claim 1, as seen in Figures 1-10, Sooferian discloses a portable solar powered stepping stone comprising a massive body (10) of irregular shape (See col. 5 lines 12-13); solar cells (40) exposed on a surface of the body to generate an electrical current; and a DC power outlet (connectors 108, 110 – See Figure 9) for providing DC power from the solar cell to a separate garden accessory such as another stepping stone. (See Figure 9). The body has an appearance of a natural garden feature (stepping stone) and a base 14 for setting on the ground so that the body maintains a stable position. It is the Examiner's position that the power coming from a battery 42 is a DC power.

Regarding claim 2, Sooferian describes the massive body is at least hollow and a regulator, or sensor 46, is located in the massive body for regulating the voltage at the power outlet (See Figure 4, col. 6 lines 44-54).

Regarding claim 3, Sooferian disclose a portable solar powered home identification system comprising a rechargeable battery, or energy storage member 42, located in the massive body, wherein the rechargeable battery is charged by the solar panel. (See Figure 4, or col. 5 lines 45-53).

Regarding claim 4, Sooferian describe the massive body is in the shape of a rock, or stepping stone 10. (See Figures 1-3, or col. 3 lines 31-35).

Regarding claim 7, Sooferian describes the base of the stepping stone is flat on its underside to provide a stable surface for setting on the ground (See Figures 1-3).

Regarding claims 8-9, Sooferian teaches that the massive body is formed from a stone powder, stone pebbles, slate or tile. (See col. 3. lines 31-40). Since natural material is used to form the stepping stone, it is the Examiner's position that the stepping stone is formed from a natural rock and hollowed out to accommodate the rechargeable battery as shown in Figures 1-7.

Regarding claims 10-11, Sooferian teaches that the massive body is formed from synthetic material shaped to resemble a natural rock, or stepping stone. In addition, the massive body is made of plastic. (See col. 3 lines 31-40).

Regarding claim 13, Sooferian discloses the surface portion that the solar cell disposed on is flat. (See Figure 4 or 6).

Regarding claim 14, as seen in Figures 1-4 and 9, Sooferian discloses a portable garden power supply 10 (a stepping stone) for powering an external device 10a (another stepping stone). The garden power supply comprises a massive body (10) having a base for setting on the ground so that the body maintains a stable position and having an irregular shape resembling a natural rock (See col. 5 lines 12-13 and col. 3 lines 31-35); a solar cell (40) exposed on a surface portion of the body to generate an electrical current; a rechargeable battery (42) located in the body, wherein the battery is charged by the solar cell; a DC power outlet (connectors 108 and 110 in Figure 9) for

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providing DC power from the solar cell to power an external device 10a (another stepping stone). (See col. 8 lines 13-18). Sooferian describes the stepping stone can be in any desired shape and made of natural rock-like material such as stone powder, stone pebbles, slate or tile. Therefore, it is the Examiner's position that the stepping stone of Sooferian has an irregular shape resembling a natural rock.

Regarding claim 15, Sooferian describes the external device is a garden accessory (or another stepping stone 10a – See Figure 9 and col. 8 lines 13-18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. Claims 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilton et al. (PGPub 20030121541).

Regarding claim 5, as seen in Figures 16 and 17, Hilton et al. disclose a portable garden power supply as described in claim 1 of section 2.

Hilton et al. do not specifically teach the inclined solar panel is angled upwardly at an angle of about 45°. However, as seen in Figure 16 and 17, Hilton et al. teach disposing solar cell on the surface of the body (or container 40) and the angle of disposing solar cell is depending on the shape of the surface.

It would have been obvious to one having an ordinary skill in the art at the time the invention was made to have the solar panel angling upwardly at an angle of about 45°, because the surface of the irregular shape of the rock-like container can be angled upwardly at an angle of 45°.

Regarding claims 8 and 9, Hilton et al. disclose a portable garden power supply as described in claim 1 of section 2.

Hilton et al. do not specifically teach using natural rock and hollowing out the natural rock. However, Hilton et al. teach the massive body having an appearance of a large rock or boulder (See paragraphs [0037], [0039]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a body of the power supply with a hallowed natural rock, because it would give a more rock-like appearance as suggested by Hilton et al.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hilton et al. (PGPub 20030121541) in view of Cirrito (US Patent 4980574).

Regarding claim 5, Hilton et al. disclose a portable power supply as described in claim 1 of section 2.

Hilton et al. do not specifically teach the solar cell is angled upwardly at an angle of about 45°.

Cirrito teach the solar cell is angled upwardly at an angle of about 45°. (See Figures 1-3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Hilton et al. by angling the solar cell upwardly at angle of about 45° as taught by Cirrito, because it would give the solar cell an optimum exposure to the sun rays. (See col. 3 lines 39-41)

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilton et al. (PGPub 20030121541) in view of Sooferian (US Patent 6932489).

Regarding claims 14 and 15, as seen in Figures 1-5 and 16-21, Hilton et al. disclose a portable solar power system (10) comprising a massive body of an irregular shape (container 40); solar cells (20, 22) exposed on a surface of the body to generate an electrical current; a DC power outlet (or wires leading to bulbs 88, 89 – See Figure 21) for providing power from the solar cells to power a light bulb. The body has an appearance of a natural garden feature (a large rock or boulder) and a base for setting

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on the ground so that the body maintains a stable position (See Figure 19 and paragraphs [0037], [0039]). It is the Examiner's position that the power coming from a battery is a DC power. It is also the Examiner's position that the light bulb is a garden accessory and separate from the solar cell panel.

Hilton et al. do not teach providing DC power to an external device such as a small pump or a garden accessory.

Sooferian teach providing DC power to an external device such as another stepping stone, or a garden accessory. (See Figure 9 and col. 8 lines 13-18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Hilton et al. by providing power to an external device as taught by Sooferian, because it would give a flexibility to the design. (See col. 3 lines 49-64).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sooferian (US Patent 6932489).

Regarding claim 5, Sooferian discloses a portable garden power supply as described in claim 1 of section 3.

Sooferian does not teach the solar panel being angled upwardly at an angle of about 45°. However, Sooferian teaches laying each stepping stone within the soil or earth. (See col. 6 lines 26-38).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the solar cell angling upwardly at an angle of about 45° as

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the surface of the soil or earth is uneven and angling upwardly at an angle 45°, because the surface of the earth or soil is where the stepping stone resting on as taught by Sooferian.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sooferian (US Patent 6932489) in view of Hilton et al. (PGPub 20030121541).

Regarding claim 12, Sooferian discloses a portable garden power supply as described in claim 1 of section 3.

Sooferian does not teach comprising a plurality of output jacks to provide a plurality of power outlets at the same or different voltages.

Hilton et al. teach using a plurality of output jacks (wires from the battery) to provides a plurality of power outlets (to bulbs 88 and 89). (See Figure 21)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a plurality of output jacks with Sooferian's stepping stone, because these features are conventional in the art as shown by Hilton et al.

9. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cirrito (US Patent 4980574) in view of Hilton et al. (PGPub 20030121541).

As seen in Figures 1-4, Cirrito discloses different portable solar power supply units (10, 14, 16). Each power supply unit comprises a massive body of irregular shape (housing or enclosure 12, 14, 18) having a base for setting on the ground so that the body maintains a stable position; a solar cell array (11, 15, 19) exposed on a surface of

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the massive body to generate an electrical current; power outlets for providing power from the solar panel to power an external device (or garden accessory) such as sprinklers. (See col. 3 lines 29-33). Cirrito also describes a battery 23 with DC outputs and a voltage regulator 22 that gives out constant current outputs, or DC outputs. (See col. 3 lines 60-68 bridging col. 4 lines 1-17). Therefore, it is the Examiner's position that Cirrito does teach a DC power outlet for providing DC power from the solar panel.

With respect to claim 2, Cirrito describes the massive body is hollow or and a regulator 33 is located in the massive body for regulating the voltage at the power outlet (See Figure 4, col. 3 lines 26-28, col. 3 lines 34-39, col. 3 line 58).

With respect to claim 3, Cirrito discloses the power supply unit comprising a rechargeable battery located in the massive body, wherein the rechargeable battery is charged by the solar panel. (See Figure 4, col. 3 lines 55-68 and col. 4 lines 1-17)

With respect to claim 5, Cirrito describes the solar panel being angled upwardly about 45° (See Figures 1-3, col. 3 lines 39-41).

With respect to claim 7, Cirrito describes the base of the power supply is flat on its underside to provide a stable surface for setting on the ground (See Figures 1-3).

With respect to claim 12, Cirrito discloses a power supply as in claim 3 comprising a plurality of output jacks providing a plurality of power outlets at different voltages and to different garden accessories. (See Figure 4, col. 2 lines 40-44 or col. 3 lines 29-33).

With respect to claim 13, Cirrito describes the surface portion supporting the solar cells is flat (See Figures 1-3).

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With respect to claim 15, Cirrito describes the external device is a sprinklers system or other water dispenser.

Cirrito teaches the limitations of the instant claims other than the difference which is discussed below.

With respect to claims 1 and 14, Cirrito does not specifically teach the body having an appearance resembling a natural garden feature such as a rock.

As relevant to claims 4 and 8-11, Hilton et al. teach the body is in the shape of a rock. (See paragraphs [0037] and [0039]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the replace the body of the device of Cirrito by a rock-like body as taught by Hilton et al., because it would give an aesthetic look to the device.

In addition, the use of natural rock and synthetic rock is a matter of obvious design choice in view of the conventionality of the rock-like body taught by Hilton et al.

Response to Arguments

Applicant's arguments filed 4/23/2007 have been fully considered but they are not persuasive.

The Applicant argues that "the devices of Cirrito are not natural garden features". The Examiner agrees that Cirrito's devices do not have a natural garden features such as a rock or a tree stump as defined by the Applicant. However, the combination of Cirrito in view of Hilton et al. obviously teaches this limitation as explained in detail in

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the rejection above. Further, disguising a system in a box or as a natural garden feature is a matter of designer choice.

The Applicant also argues that Cirrito does not teach the use of DC power outlet. The Examiner disagrees. As seen in Figure 4, Cirrito does teach using a battery and a voltage regulator. Inherently the outputs of the voltage regulator and battery are DC outputs. DC outputs are only converted to AC when passing through the inverter in order to provide an AC output for a device using AC power. If in the case of using a DC device, it would have been obvious to use a DC power outlet. Again, the use of a DC or AC device is a matter of designer choice.

The Applicant also argues that the device of Hilton et al. is a self-contained unit and not a natural garden feature. However this argument is not deemed to be persuasive. Hilton et al. teach the device can have a shape of a large rock or boulder. (See '541 paragraphs [0037] and [0039]). Even though the device is used to power light bulbs inside the container, it still has the DC power outlets. And the manner in which these DC power outlets are employed or intended, either to power external device or internal device, does not differentiate the claimed apparatus from the prior art apparatus. See MPEP § 2114.

The Applicant further argues that the device of Sooferian is self-contained, does not have an irregular shape, and does not include a DC outlet. However, this argument is not deemed to be persuasive because Sooferian does teach DC power outlets 108 and 110 from one stepping stone connecting to another stepping stone as seen in Figure 9. Sooferian also teaches the stepping stone can be in any shape and made of

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material such as stone pebbles, etc... (See '489 col.5 lines 10-15 and col. 2 lines 58-62)

Therefore it is the Examiner's position that the Sooferian teaches the limitation of "irregular shape".

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh-Truc Trinh whose telephone number is 571-272-6594. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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